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DEPARTMENT OF COMMERCE

International Trade Administration

[A-475-838]

Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from Italy: Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances, in Part

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) determines that certain cold-drawn mechanical tubing of carbon and alloy steel (cold-drawn mechanical tubing) from Italy is being, or is likely to be, sold in the United States at less than fair value (LTFV), during the period of investigation (POI) is April 1, 2016, through March 31, 2017.

DATES: Effective [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

FOR FURTHER INFORMATION CONTACT: Carrie Bethea, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-1491.

SUPPLEMENTARY INFORMATION:

Background

On November 22, 2017, Commerce published in the *Federal Register* the preliminary affirmative determination of sales at LTFV and the preliminary affirmative determination of critical circumstances, in part, in the antidumping duty (AD) investigation of cold-drawn

mechanical tubing from Italy.¹ Commerce postponed the final LTFV determination.² Commerce exercised its discretion to toll all deadlines affected by the closure of the Federal Government from January 20 through 22, 2018. As a result, the revised deadline for the final determination of this investigation is now April 9, 2018.³ Commerce invited comments from interested parties on the *Preliminary Determination*.⁴ The petitioners,⁵ Dalmine, S.p.A. (Dalmine), and Metalfer, S.p.A. (Metalfer) filed case and rebuttal briefs.⁶ A summary of the events that occurred since Commerce published the *Preliminary Determination*, as well as a full discussion of the issues raised by interested parties for this final determination, may be found in the Issues and Decision Memorandum.⁷ The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <http://access.trade.gov>, and it is available to all parties in the Central Records Unit, room B8024 of the main Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn/>. The signed and electronic versions of the Issues and Decision Memorandum are identical in content.

¹ See *Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from Italy: Preliminary Affirmative Determination of Sales at Less than Fair Value, Preliminary Affirmative Determination of Critical Circumstances, in Part, Postponement of Final Determination and Extension of Provisional Measures*, 82 FR 55561 (November 22, 2017) (*Preliminary Determination*).

² *Id.*

³ See Memorandum for The Record from Christian Marsh, Deputy Assistant Secretary for Enforcement and Compliance, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance, "*Deadlines Affected by the Shutdown of the Federal Government*" (Tolling Memorandum), dated January 23, 2018. All deadlines in this segment of the proceeding have been extended by 3 days.

⁴ See Memorandum, "Briefing Schedule for Final Determination," dated February 23, 2018.

⁵ ArcelorMittal Tubular Products, Michigan Seamless Tube, LLC, PTC Alliance Corp., Plymouth Tube Co. USA, Webco Industries, Inc., and Zekelman Industries, Inc. (collectively, the petitioners).

⁶ See Metalfer's Letter, "Metalfer's Case Brief," dated March 2, 2018 (Metalfer's Case Brief); Petitioners' Letter, "Case Brief of Petitioners," dated March 5, 2018 (Petitioners' Case Brief); Dalmine's Letter, "Case Brief of Dalmine S.p.A. and Tenaris Global Services U.S.A. Corporation," dated March 5, 2018 (Dalmine's Case Brief).

⁷ See Memorandum, "Issues and Decision Memorandum for the Final Affirmative Determination in the Less-Than-Fair Value Investigation of Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from Italy," dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

Scope of the Investigation

The product covered by this investigation is cold-drawn mechanical tubing from Italy. In the *Preliminary Determination*,⁸ we set a separate briefing schedule on scope issues for interested parties.⁹ Certain interested parties commented on the scope of the investigation as it appeared in the Preliminary Scope Decision Memorandum.¹⁰ On December 4, 2017, the petitioners withdrew a portion of their comments regarding the scope language.¹¹ Commerce addressed all scope comments received in the Final Scope Decision Memorandum and made changes to the scope that appeared in the *Preliminary Determination*.¹² A full description of the scope is contained at Appendix I to this notice.

Period of Investigation

The POI is April 1, 2016, through March 31, 2017.

Verification

As provided in section 782(i) of the Tariff Act of 1930, as amended (the Act), Commerce conducted the cost and sales verifications of Dalmine in Dalmine, Italy, and Houston, Texas, between December 12, 2017, and February 13, 2018. We used standard verification procedures, including an examination of relevant accounting and production records, and original source documents provided by the respondents. Following the *Preliminary Determination*, Metalfer

⁸ See *Preliminary Determination*.

⁹ *Id.*, 82 FR at 55562. The scope case briefs were due five days after the publication of the preliminary less than fair value determinations for China, Germany, India, Italy, Korea, and Switzerland in the *Federal Register*, and the rebuttal briefs were due three days after the due date for the scope case briefs, *i.e.*, Monday, November 27, 2017 and Thursday, November 30, 2017.

¹⁰ See Memorandum, “Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from the Federal Republic of Germany, India, Italy, the Republic of Korea, the People’s Republic of China, and Switzerland: Scope Comments Decision Memorandum for the Preliminary Determinations,” dated November 15, 2017 (Preliminary Scope Decision Memorandum).

¹¹ See the petitioners’ letter, “Certain Cold-Drawn Mechanical Tubing from Germany et al. – EN-10305-3,” dated December 4, 2017.

¹² See Memorandum, “Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from the Federal Republic of Germany, India, Italy, the Republic of Korea, the People’s Republic of China, and Switzerland: Scope Decision Memorandum for the Final Determinations: Final Scope Decision Memorandum,” dated December 4, 2017 (Final Scope Decision Memorandum).

withdrew its participation in the investigation as a mandatory respondent and did not participate in verification.¹³

Final Affirmative Determination of Critical Circumstances, in Part

In the *Preliminary Determination*, in accordance with section 733(e)(1) of the Act and 19 CFR 351.206, Commerce found that critical circumstances existed for Dalmine and Metalfer, but not for all other producers or exporters. Commerce received no comments concerning the preliminary critical circumstances determination. For this final determination, while Commerce continues to find that, in accordance with section 735(a)(3) of the Act and 19 CFR 351.206, critical circumstances exist for Dalmine and Metalfer and do not exist for “all other” producers or exporters, Commerce has made changes to its analysis because, as discussed below, Commerce has determined that for both Dalmine and Metalfer, the use of adverse facts available is warranted in determining a margin for these companies. For further discussion of Commerce’s critical circumstances analysis, *see* the Issues and Decision Memorandum.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties in this investigation are addressed in the Issues and Decision Memorandum, which is hereby adopted by this notice. A list of the issues raised is attached to this notice as Appendix II.

Use of Facts Available and Adverse Facts Available

For purposes of this final determination, Commerce relied on facts available with adverse inferences to assign an estimated weighted-average dumping margin to Dalmine and Metalfer, pursuant to sections 776(a)(2)(A)-(C) and 776(b) of the Act. For further information, *see* the Issues and Decision Memorandum.

¹³ *See* Metalfer’s Letter, “Metalfer’s Withdrawal of Participation as Mandatory Respondent,” dated December 8, 2017.

Changes Since the Preliminary Determination

Based on our analysis of the comments received and our findings at verification, we made certain changes to our analysis. As noted above, we are now applying adverse facts available in determining margins for the mandatory respondents. For a discussion of these and other changes, *see* the Issues and Decision Memorandum.

All-Others Rate

Section 735(c)(5)(A) of the Act provides that the estimated “all-others” rate for exporters and producers not individually investigated shall be an amount equal to the weighted average of the estimated weighted-average dumping margins established for individually investigated exporters and producers, excluding any margins that are zero or *de minimis* or any margins determined entirely under section 776 of the Act. In contrast to the *Preliminary Determination*, we cannot apply the methodology described in section 735(c)(5)(A) of the Act to calculate the “all-others” rate because the margin for both individually-investigated respondents in the final determination was determined entirely under section 776 of the Act. In cases where no weighted-average dumping margins other than zero, *de minimis*, or those determined entirely under section 776 of the Act have been established for individually examined entities, in accordance with section 735(c)(5)(B) of the Act, Commerce averages the margins calculated by the petitioners in the petition and applies the result to “all-other” entities not individually examined.¹⁴ Consistent with our practice, we assigned as the “all-others” rate, the simple average of the three dumping margins provided in the petition, which is 47.87 percent.

¹⁴ See *Notice of Preliminary Determination of Sales at Less Than Fair Value: Sodium Nitrite from the Federal Republic of Germany*, 73 FR 21909, 21912 (April 23, 2008), unchanged in *Notice of Final Determination of Sales at Less Than Fair Value: Sodium Nitrite from the Federal Republic of Germany*, 73 FR 38986, 38987 (July 8, 2008), and accompanying Issues and Decision Memorandum at Comment 2 (*Sodium Nitrite from Germany Final Determination*).

Final Determination Margins

The weighted-average dumping margins are as follows:

Exporter or Producer	Estimated Weighted-Average Dumping Margin (percent)
Dalmine, S.p.A.	68.95
Metalfer, S.p.A.	68.95
All-Others	47.87

Disclosure

We will disclose the calculations performed within five days of any public announcement of this notice in accordance with 19 CFR 351.224(b).

Continuation of Suspension of Liquidation

In accordance with section 735(c)(4)(A) of the Act, for this final determination, Commerce will instruct U.S. Customs and Border Protection (CBP) to suspend liquidation of all entries of cold-drawn mechanical tubing from Italy, as described in the Appendix I to this notice, produced or exported by Dalmine and Metalfer, which were entered, or withdrawn from warehouse, for consumption on or after August 24, 2017, (90 days prior to the date of publication of the *Preliminary Determination*), because we continue to find that critical circumstances exist with regard to imports from, produced, or exported by Dalmine and Metalfer.

In accordance with section 735(c)(1)(B) of the Act, Commerce will instruct U.S. CBP to continue to suspend liquidation of all appropriate entries of cold-drawn mechanical tubing, as described in Appendix I of this notice, produced or exported by “all-other” entities which were

entered, or withdrawn from warehouse, for consumption on or after November 22, 2017, the date of publication of the *Preliminary Determination*.

Furthermore, pursuant to section 735(c)(1)(B)(ii) of the Act and 19 CFR 351.210(d), Commerce will instruct CBP to require a cash deposit for such entries of merchandise equal to the estimated weighted-average dumping margin or the estimated all-others rate, as follows: (1) the cash deposit rate for the respondents listed above will be equal to the respondent-specific estimated weighted-average dumping margin determined in this final determination; (2) if the exporter is not a respondent identified above but the producer is, then the cash deposit rate will be equal to the respondent-specific estimated weighted-average dumping margin established for that producer of the subject merchandise; and (3) the cash deposit rate for all other producers and exporters will be equal to the all-others estimated weighted-average dumping margin.

These instructions will stay in effect until further notice.

International Trade Commission Notification

In accordance with section 735(d) of the Act, we will notify the U.S. International Trade Commission (ITC) of the final affirmative determination of sales at LTFV. Because the final determination in this proceeding is affirmative, in accordance with section 735(b)(2)(B) of the Act, the ITC will make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports of cold-drawn mechanical tubing from Italy no later than 45 days after our final determination. If the ITC determines that material injury or threat of material injury does not exist, the proceeding will be terminated and all cash deposits will be refunded. If the ITC determines that such injury does exist, Commerce will issue an antidumping duty order directing CBP to assess, upon further instruction by Commerce, antidumping duties on all imports of the subject merchandise entered,

or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation, as discussed above in the “Continuation of Suspension of Liquidation” section.

Notification Regarding Administrative Protective Orders

This notice will serve as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

Notification to Interested Parties

We are issuing and publishing this determination and notice in accordance with sections 735(d) and 777(i) of the Act and 19 CFR 351.210(c).

Dated: April 9, 2018.

Gary Taverman,
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations,
performing the non-exclusive functions and duties of the
Assistant Secretary for Enforcement and Compliance.

Date

Appendix I

Scope of the Investigation

The scope of this investigation covers cold-drawn mechanical tubing of carbon and alloy steel (cold-drawn mechanical tubing) of circular cross-section, 304.8 mm or more in length, in actual outside diameters less than 331mm, and regardless of wall thickness, surface finish, end finish or industry specification. The subject cold-drawn mechanical tubing is a tubular product with a circular cross-sectional shape that has been cold-drawn or otherwise cold-finished after the initial tube formation in a manner that involves a change in the diameter or wall thickness of the tubing, or both. The subject cold-drawn mechanical tubing may be produced from either welded (*e.g.*, electric resistance welded, continuous welded, etc.) or seamless (*e.g.*, pierced, pilgered or extruded, etc.) carbon or alloy steel tubular products. It may also be heat treated after cold working. Such heat treatments may include, but are not limited to, annealing, normalizing, quenching and tempering, stress relieving or finish annealing. Typical cold-drawing methods for subject merchandise include, but are not limited to, drawing over mandrel, rod drawing, plug drawing, sink drawing and similar processes that involve reducing the outside diameter of the tubing with a die or similar device, whether or not controlling the inside diameter of the tubing with an internal support device such as a mandrel, rod, plug or similar device. Other cold-finishing operations that may be used to produce subject merchandise include cold-rolling and cold-sizing the tubing.

Subject cold-drawn mechanical tubing is typically certified to meet industry specifications for cold-drawn tubing including but not limited to:

(1) American Society for Testing and Materials (ASTM) or American Society of Mechanical Engineers (ASME) specifications ASTM A-512, ASTM A-513 Type 3 (ASME SA513 Type 3), ASTM A-513 Type 4 (ASME SA513 Type 4), ASTM A-513 Type 5 (ASME SA513 Type 5), ASTM A-513 Type 6 (ASME SA513 Type 6), ASTM A-519 (cold-finished);

(2) SAE International (Society of Automotive Engineers) specifications SAE J524, SAE J525, SAE J2833, SAE J2614, SAE J2467, SAE J2435, SAE J2613;

(3) Aerospace Material Specification (AMS) AMS T-6736 (AMS 6736), AMS 6371, AMS 5050, AMS 5075, AMS 5062, AMS 6360, AMS 6361, AMS 6362, AMS 6371, AMS 6372, AMS 6374, AMS 6381, AMS 6415;

(4) United States Military Standards (MIL) MIL-T-5066 and MIL-T-6736;

(5) foreign standards equivalent to one of the previously listed ASTM, ASME, SAE, AMS or MIL specifications including but not limited to:

(a) German Institute for Standardization (DIN) specifications DIN 2391-2, DIN 2393-2, DIN 2394-2);

(b) European Standards (EN) EN 10305-1, EN 10305-2, EN 10305-4, EN 10305-6 and European national variations on those standards (*e.g.*, British Standard (BS EN), Irish Standard (IS EN) and German Standard (DIN EN) variations, etc.);

(c) Japanese Industrial Standard (JIS) JIS G 3441 and JIS G 3445; and

(6) proprietary standards that are based on one of the above-listed standards.

The subject cold-drawn mechanical tubing may also be dual or multiple certified to more than one standard. Pipe that is multiple certified as cold-drawn mechanical tubing and to other specifications not covered by this scope, is also covered by the scope of this investigation when it meets the physical description set forth above.

Steel products included in the scope of this investigation are products in which: (1) iron predominates, by weight, over each of the other contained elements; and (2) the carbon content is 2 percent or less by weight.

For purposes of this scope, the place of cold-drawing determines the country of origin of the subject merchandise. Subject merchandise that is subject to minor working in a third country that occurs after drawing in one of the subject countries including, but not limited to, heat treatment, cutting to length, straightening, nondestructive testing, deburring or chamfering, remains within the scope of this investigation.

All products that meet the written physical description are within the scope of this investigation unless specifically excluded or covered by the scope of an existing order. Merchandise that meets the physical description of cold-drawn mechanical tubing above is within the scope of the investigation even if it is also dual or multiple certified to an otherwise excluded specification listed below. The following products are outside of, and/or specifically excluded from, the scope of this investigation:

(1) cold-drawn stainless steel tubing, containing 10.5 percent or more of chromium by weight and not more than 1.2 percent of carbon by weight;

(2) products certified to one or more of the ASTM, ASME or American Petroleum Institute (API) specifications listed below:

- ASTM A-53;
- ASTM A-106;
- ASTM A-179 (ASME SA 179);
- ASTM A-192 (ASME SA 192);
- ASTM A-209 (ASME SA 209);
- ASTM A-210 (ASME SA 210);
- ASTM A-213 (ASME SA 213);
- ASTM A-334 (ASME SA 334);
- ASTM A-423 (ASME SA 423);
- ASTM A-498;
- ASTM A-496 (ASME SA 496);
- ASTM A-199;
- ASTM A-500;

Appendix II

List of Topics Discussed in the Issues and Decision Memorandum

- I. SUMMARY
 - II. BACKGROUND
 - III. SCOPE OF THE INVESTIGATION
 - IV. FINAL AFFIRMATIVE DETERMINATION OF CRITICAL CIRCUMSTANCES, IN PART
 - V. CHANGES SINCE THE PRELIMINARY DETERMINATION
 - VI. USE OF FACTS OTHERWISE AVAILABLE AND ADVERSE INFERENCES
 - VII. DISCUSSION OF THE ISSUES
 - Comment 1: Whether Applying Partial AFA to Dalmine for the *Preliminary Determination* was appropriate
 - Comment 2: Whether Commerce Used Aberrational Values in the Application of Partial AFA to Dalmine for the *Preliminary Determination*
 - Comment 3: Whether Commerce Had a Ministerial Error in the Program Calculating Dalmine's Margin for the *Preliminary Determination*
 - Comment 4: Whether Commerce Properly Applied its Differential Pricing Methodology in Selecting Dalmine's Cash Deposit Rate
 - Comment 5: Whether Commerce Can Rely on Dalmine's U.S. and Home Market Sales Responses
 - Comment 6: Whether Commerce Can Rely on Dalmine's Cost Response for the Final Determination
 - Comment 7: Whether Commerce Should Apply Total Adverse Facts Available to Dalmine for the Final Determination
 - Comment 8: Commerce's Selection of the Total Adverse Facts Available Rate for Metalfer
 - VIII. RECOMMENDATION
- [FR Doc. 2018-07848 Filed: 4/13/2018 8:45 am; Publication Date: 4/16/2018]